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## Developments in the Governing Procedure of the Document Arrangements in Notary public offices in Iran's law

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### Abstract

The oldest legal institution in Iran is the entity for deed arrangements (the Notaries). It is of such importance that the government has been paying special attention in all historical eras and since the human population is growing and trade lawfully began in a modern manner, the need to record transactions and the role of the notaries and the head of notary public offices were also evident. Notary public offices are authorities of arrangement and registration of contracts and property documents related as stated in Article 1 of the Notarial Act of 25 July 1354 have been placed among the collections of the Ministry of Justice and accordingly in current situation, is a provider of specialized services to the people and the government and on the other hand, under Article 2 of the same law, the management of the issues of Notary public Office is appointed to a person suggested by Registration of Deeds and Properties Organization through consultation collected of Association of the Notary Public Heads and due to the Minister of Justice's notification (As the Judiciary Bureau head notified) and is called the Notar. This current research with an applied goal, an analytical-descriptive method and using library resources, especially legal documentation is to review developments in the procedure governing the notarial document arrangements in notary public offices in Iran's law. We hope the contents of this investigation, on the one hand, cause the awareness of the enthusiasts in the field of law regarding the details in the developments of procedures governing deed arrangements in notary public offices and on the other hand, cause the proposal of solutions to overcome the impediments of arrangements of deeds and avoid any mistakes of notary public offices.

**Key Words:** The head of notary office, Notary public offices, Electronic registration, Organization of Document Registration

### Introduction

To validate and formalize the transactions, obligations and contracts people need to refer to the notary public offices for their registration. Nowadays by the expansion of transactions and the frequency of the corruption related to undertaking transactions in real estate transactions that instead of consultation in transactions attempt the

arrangements of the transaction deeds and receiving a large amount of fee from dealers, the necessity of arrangements of official documents according notary public offices due to the claims presented in the courts arising from the arrangements of ordinary documents is very much felt today.

Notary public office is a registration institution affiliated with the Judiciary Bureau and Registration of Deeds and Properties' organization, that is responsible for the arrangement and the registration of official documents, verification of signature in accordance with laws and regulations and the will of the individual and sometimes hidden relationships has been turned into written documents. There the individual desires get friendly flavor of legality turns out as compelling to the trial jury in various flavors. The Notary public office is the secret-keeper of the people and protective of their interests. The heart of the notary office is filled with thousands of wills, affidavits, endowment and peace letters that the testator knowingly and advisably with complete confidence to notary head office entrusted to him the hidden in his heart.

The notary office, addition to the legal obligations of their office is having some moral and ethical duties that aside from the problems of its own, which is the essence of job, and would satisfy the conscience and due to the expression of the sensitivity office work is enough to know that a simple pen oversight would cost million tomans financial losses and large amount of irreversible spiritual losses brought to each transaction sides. It is worth noting that in the past transactions and contracts it was confirmed by authorities, scholars, clergymen and local dignitaries, and credited. And the relevant papers remain in the hands of owners without another version of that document archived; thus, if the property would have been destroyed by natural disasters, supporting documents, proving the ownership would have been impossible. Therefore, with regard to all the items mentioned above, the need to revise the terms of notary office and breaking its old fence that even the name creates gray image in minds is strongly felt. And we intended to break the false and unfavorable ruling tradition for the first time and provide a different place from what it has been customary till today find a fine status for the scribe in justice and

to provide a secure public consent and in this way, we always think of getting better every day.

In this research, by a functional aim, descriptive-analytic method and using library resources (especially legal documents), we are trying to review Notarial tasks, procedural developments governing them and the affairs that conducted in notary offices and if possible, providing solutions for removing arrangement and Registration impediments of Deeds and preventing any mistakes of notary office.

Before anything, it is obvious that expression of knowledge of the documents, definition, types of documents and their effects and remarks on the interpretation of the cases seem necessary. What lays ahead, consists of the general, and theoretical background of the research and the cases mentioned in regard to responsibilities, rules and principles governing the notary public office, legal aspects of electronic registration, its legal aspect, the organization of the notary office, and in conclusion regarding the aforementioned contents.

## **2- Research theoretical principles and background**

### **2-1- Definition of Document**

Since the discussion is on the Law of Document Registration, document in the meaning on the article title should be an official document and the first point that comes to mind in regard to the official deed for anyone who has come be briefly familiar with the science of law, as Article 1287 of the Civil Code states of official document as follows: «Documents that are arranged in the organization of Registration of Deeds and properties or notary public offices or near other officials within their jurisdiction in accordance to the legal regulations are official. »According to paragraph 2 of Article 1258 of the Civil Code and articles 206 to 229 of the Civil Procedure Code, the document is also one of the proofs of arguments and it can be said that document and in particular the official document proving is the most credited means to prove the claim or right most important reasons to prove a claim. On the subscription of an official document there are a combination of reasons and maintaining and proving its existence and protecting reasons and to and maintain it much easier to cite than the other reasons and are not easily deniable and doubtful, and destructible.

#### **2-1-1- Document types**

The document is divided into two types: official document and ordinary document. The purpose of the official document is that they are either arranged by officials and in their jurisdiction or in accordance with law such as documents prepared by the authorities of organizations of Deed and property registration or notary public. A document

prepared in the notary office document is an official document. Documents can be divided in several ways:

- A - Legal division
- B - Substantive division
- C - Division based on the reference of arrangement
- D - Division in terms of form
- E- The financial division

The basics of official document can be described as «a set of rules of nature related to the arrangement of document as well as the place and as observing officials in accord with their jurisdiction. »

### **2-2- Definition of the notary office and its duties**

«The notary office is an institution affiliated with the Judiciary Bureau and the Registration of Deeds and Property organization holding the responsibility of regulation and the registration and recording the official documents, verification signatures in accordance with laws and regulations. » Public in general to credit and formalize their transactions, obligations and contracts are required to refer to the Notary public offices for registration. Today by increasing interaction and relations of the public, the need for formal registration of legal relations between the people to protect their rights and to prevent potential problems is required more important than ever before.

In accordance with Real Estate Registration law passed in the year 1310 AH, the tasks of the Notary Head of offices are as follows:

- 1- Registration of documents in accordance with the provisions of the law.
- 2- Educating people of the examples of documents recorded to whom have certified right to get to know in accordance with the law provisions.
- 3- Verification the signature.
- 4- Acceptance and keeping the documents to provide safety.

2-2-1- The documents capable of being registered at the notary office: (Articles 1288 of the Civil Code and Registration Law 46 and 30 of the Notary public Offices and ...)

- Registration of some documents like transactions recorded, properties, cars, ships, company share, the right of business or trade, patent, innovation registration paper, printing machines, lithography and Bindery at the offices of the notary is required.
- Certain contracts such as leases, powers of attorney, peace, mortgage, pledge, confession, consents, wills and contracts, especially if they are not in opposed to regulations and public order and good morals.

#### **2-2-2- Notary office duties (Article 49 of the Registration Law Article 57 of the Code of Civil Procedure)<sup>1</sup>**

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<sup>1</sup>- Abbasi Dakany, Khosro, The patent

- Registration of documents in accordance with the provisions of the Law
- Verification of the signature (signature certificate)
- Comparing copy of the original document (the authentication with the original) and...

## **2-3- Research Background**

### **2-3-1- History of Registration Law in Iran**

From the time when man considered the collective life as a requirement was to meet the needs and prolong life even to save the life, the transaction was inevitable with the others. And now, after hundreds of thousands of years, still with the same reasons, the deals are inevitable. Only over time and the increasing variety of trading, their forms have been altered, in other words the taste of market transformation has been leading to the evolution and development of transactions as far as basic transactions quickly gave way quickly to various types of agreements and contracts with complicated terms and preconditions and today, complex contracts and super-specialty should replace the simple past trading.<sup>2</sup>

On the other hand, the expansion of trade and the influence of some evil human characteristics and a group of people's greed began when man was brought to face unpleasant and disgusting and in practice to bargain became a public issue and many people with disdain and reluctance and a sense of desperation of doing transactions and in parallel to the issues mentioned any one of the religions also after the emergence somehow tried to canalize the transactions and leading the followers to keep trading and operating conditions and the fulfillment of the conventions faithfully and that with the rise of Islam as a complete religion was glaring in the best way and it was Islam's first attempt to categorize contracts while providing definition of each of the contracts and developing different terms applicable for the rules in a very delicate and precise manner, which caused a major change in the laws of all the nations of the world including Muslim and non-Muslim.

However, to avoid multiple interpretations and commentaries and avoid disputes arising from the transaction, authoritative verse;

«يا ايها الذين آمنوا اذا تدابرتكم بدين الى اجل مسمى فاكتبوه وليكتب كاتب العدل»

«O you who have faith, when religion is brought to you in a certain period of time It is necessary for you and to be a writer (the document) among yourselves to do justice, » and the leading motto of all the believers which were underlying background for the emergence of Notary offices to be established. These offices are supposed to play the role of « fair scribe. »

### **2-3-2- Establishment of notary offices**

Regarding the research background in the records of notary offices it should be noted that prior to the reign of Reza Shah Pahlavi in Iran, there were no notary offices and people trades was recorded on movable and immovable property in relation to various contracts as dedications, peace, marriage and divorce by jurists or some clergymen who had reached the rank of ijtehad and documents were kept near them. The clergymen recorded the people's trades and to prove that these transactions were registered in exchange of original deed or document that had been signed and sealed were given to persons that the documents were considered as the original deed any other transaction sealed in regard to which a person is called the owner were done by the jurists and Clergymen. Reza Shah in 1305 ordered the establishment of the Notary Public throughout Iran.

The Law of Notary Offices was independently approved in Bahman 1307 and its Articles in the Real Estate Registration with a modification Act 1308 and was approved in 1310 as the independent chapter. In 1316 /15/ 3 independent law of Notary offices was approved consisting 65Articles.

The law of Notary offices has two regulations, one of which was published at 1317/14/2and the other at 1316/27/7. The law was all abolished in 1354 and new current law was replaced including 76 Articles.

From the first generation of marriage and divorce Notary Heads, these people can be named; Friday leading prayer Khomeini, Mirza Mohammad Behbahani and Seied Mohammad Reza Afjeie, Haj Bahr Al-Oloom Rashti, Mirza Mohammad Hossein Shoshtari and the first notary public offices, some had marriage and divorce offices; Sheikh Abul Ghasem Toieserkani, Sheikh Mohammad Zanjani, Seied Sadeq rashti Jilani, Seied Ali Akbar Ayatollah Zadeh, Seied Abdollah Taleghani, Seied Jafar Afjeie, Doctor Mosa Javan, Seied Mehdi Lahiji, Sheikh Abu Turab Nahavandi ....

And the first Heads of Notary Offices to be known in towns are Sheikh Mohammed Nahavandi, Sheikh Mohammad Qaravi Ghouchani and Sheikh Hassan Barsi in Mashhad. It should be noted that having two offices for notary was approved until 1354 that the new law was passed was necessary; A head notary office and other assistant notary office with legislation enacted in 1354 have vanished and later arrangements of two copies of contracts became common: one for File Registry in the Notary and other document for the transaction companions, that it continues so far.

Among other change in the law of Notary public offices, is the issue of affixing stamps to

<sup>2</sup>- Mohammadi, Seied Jalil, History of property in Iran and the Real Estate Registration

documents that pursuant to the Act of 54 billing and paying registration fees to the bank was replaced for the notary attached stamp that the Head of Notary received for the registration fees and other rights and after 5 days or a week paid the collection of registration fees to the Registry Deposit Account of National Bank until it was decided on the basis of a directive issue on the date 69/05/01 that for every separate document bills of registration fees to be issued and to be transferred by the client to the bank but notaries share of the fee paid for writing shall continue to be personally collected. Until the date of 79/10/10, according to the directive issued No. 24561/34/1 ordered by Mr. Mohammad Reza Alizadeh the contemporary head of the Organization, the registration fee, such as the fee to issue a separate bill for each document by the client to the National Bank, in the personal notary's deposit account and now no cash is paid for the jobs in the Notary office and all the registration, copyright and writing fees, and depository papers and other costs are paid to the bank. Until the date 80/07/01 to issue a warning, executive issues and termination of documents and bills of deposit no money was received that from then on for the first time also fee is to be paid for the Notary office.

From all the fee for writing received 20 percent is for the assistant and 80 percent is for notary Head that with the issue of the law in 1354 and then its change in 71/04/03 for writing fee that %15 for insurance and pension services and of Head and assistant of the notary office was transferred to Association deposit account the clerk Registrar's share dropped from 20 percent to 15 percent, and by decree of the Revolutionary Council 59/03/31 first %15 and maximum %95 of the registration fee by the reformation of the law for office staff to be collected as radically increasing was considered that in March 1371 with the reformation of the law for employees 15 percent fixed, regardless of the top registration fee collected was calculated and also due to the 71/03/03 law, notary clerk office employees are subject to labor law and social security.

Until the year 1354 the heads of Notary offices and assistants of offices had no retirement pension and social security services but from 1354 due to the Article 165 of the tax law proclaimed in 1354 that %8 of tax sums collected as fees are subtracted and the rest that is the % 4 remnant is directly paid to the heads Notary offices' deposit account center by the Ministry of Finance to be paid for the welfare and pensions and 4 percent is to be taken personally by the notary until the tax reform in

1366, the Ministry of Finance Affairs and Finance refused to pay % 8 and until August 1359, heads of notary offices, real estate taxes and mortgage debt to be paid to the Ministry of Finance . That year receiving property taxes by the heads of offices was prohibited and contraction with the issuance of recoupment account and paying taxes of property transfers were carried out.

It is worth mentioning that there are almost all over the country currently about 950 notary offices and one thousand two hundred marriage offices and fifty five hundred divorce offices. These figures (on approximation and estimation)<sup>3</sup> approximately three hundred notary offices and four hundred marriage and hundred and fifty divorce offices are located in Tehran<sup>4</sup>.

3- Liabilities, provisions and principles of Notaries  
3-1-According to Article 49 of the Registration Law and Article 57 of the Civil Procedure Code, the issues that must be done in the office are as follows:

### **3-1-1- Registration of documents in accordance with the provisions of the Immovable Documents' Arrangements**

Before registration of any document in office, the first issue that arises is that this document is against public order, morality and is not against law and all legislations must be observed.

### **3-1-2- The manner of arrangements of movable documents in Notary offices**

According to the article 1288 of the Civil Code, the Registration Laws 46 and 30 of the Notary Offices' Law, the registration of some documents, such as on the cars transactions are carried out in Notary Offices. The manner of the arrangements of movable documents, including cars is so that the beginning of each year from the Finance Ministry in form of table of tax related to transport is presented to the notary offices and on basis of announcements of the Ministry of Finance about transference taxes, they calculate the costs on movable property.

### **3-1-3- The jurisdiction of notary public offices for documents arrangements of transference**

From the year 1389, a plan was introduced in the parliament, the cars that switched license plates the identity card of the vehicle is considered as the vehicle document and the traffic department declares the ownership document by the change of the name of the document. Such a plan due to lack of proper expertise was passed in the Parliament

<sup>3</sup>- Because we never can actually know about the number in accordance with the reality, as a result of death or suspension or discharge of the heads of the notary offices and in regard to disciplinary

proceedings, the numbers always fluctuate and are approximations.

<sup>4</sup>- Statistics contained in this article are from the past so that now only the number of notary public offices in Tehran is about 920. (Association Notary Journal)

but the Guardian Council rejected it, but traffic department disregarding the vote of Guardian Council is still considering it valid to replace the plaque without transference in notary office and the purchaser is called the owner and the certificates are validated as official document by the traffic department<sup>5</sup>.

### **3-2- Verification of the signature (signature certificate)**

#### **3-2-1- The manner of certifying signature in the notary office**

The first step for the head of notary office is the authentication of the identity of the person referring to the office and after confirmation the normal scripts is stated as non-financial. The verification of the signature is issued duplicated and the subscription is written as follows and only the signature of Mr..... is certified(mentioning the personal characteristics) under the symbol × specified dated ... was certified, the signature of the applicant the certification is issued in two copies in. And the certification of the signature of the magazine and all the pages are numbered is to be written and sealed by the Real Estate Registration and the notary office head in the column devoted to the applicant's signature under the certification handwriting of the applicant written in accordance with paragraph 88 of the directive 5 of registration: Notary office head must refuse to sign the certificate, the text whose language is foreign before the official translation of the document and obtaining information should not be certified and in case of obtaining the official translation the title should be indicated in the certification phrase<sup>6</sup>.

#### **3-2-2- The writing and registration fees of the signature verification**

Writing fee of the signature verification due to the tariffs announced by the court of Justice and directives of the Real Estate Registration organization was decided 100,000 Rials. According to the paragraph 98 of the directives of the registration the notary public offices should transfer the sum of money that is allocated to the each signature verification to the association of the notary clerks and heads deposit account of notaries and account each month and send its bills to the center.

### **3-3- Comparing copy of the original document (the authentication with the original)**

#### **3-3-1- Verification of the copy of attached documents with the original**

According to Article 57 of Procedure Act of Public and Revolutionary Courts in Civil matters (proclaimed at Farvardin 21, 1379) the applicant should have copy of the image of the documents attached to the petition. Copy or image must be legible and the verification should be done with the original. The purpose of certification is that there is a the court office to which the petition is submitted or other office of other courts or one of the Real Estate Registration or notary public offices and where none of them are.<sup>7</sup>

### **3-4- Different Liabilities in the Notary Public Offices**

Responsibilities of Notary public offices are as follows: administrative and Disciplinary responsibility, criminal liability and civil responsibility.

### **3-5-Monitoring Notary Public Offices**

Notary public offices are inspected regularly by the General Inspection Office of the country, Real estate and property organization, the Provincial Registration Office, Ministry of Economy and Finance and inspection center of notary heads and clerks.

### **3-6- Regulation Compliance of Document arrangements in Notary public offices**

Following the provisions of document arrangements in the offices of the notary, include provisions is formal and the substantive provisions of the document arrangement.

In general, in regard to the responsibility, the rules and principles governing the notary offices it is important to note that the other titles includes Notarial document procedural levels , common violations in the Notary offices, Notary offices , as a judicial counter, company, sign and inventions registration, place of registration of documents on the establishment of social peace, notary officers and public trust, transaction summary, tolerance and responsibilities resulting from the necessity of dividing qualification facilitating document arrangement in the notary that in the present study, due to space constraints, we are unable to give detailed study of this subject, if desired, it is left to the honorable readers.

4- The concept of electronic registration and its legal aspects

The digital world with a space called 'virtual' is an integral part of the article 1291. Normal documents in two cases official have the validity of official documents and is valid for the parties and their heirs and deputy:

<sup>5</sup> - Public Relations Association of notaries and clerks [www.notary.ir](http://www.notary.ir)

<sup>6</sup> - Association of notaries and office (53) Magazine, November and Azar 1383

<sup>7</sup> - Abbas Dakani, Khosrow, The Registration Rights

1- If the party against who document has been filed acknowledges the person issuing it.

2. If it is proven in court that the mentioned document has actually been signed or stamped by the party that denies or doubts it.

Article 1292- Against the official documents or documents that have validity the denial or doubt is not heard and can claim the document forgery or to prove that the credit these mentioned documents' legal aspects have diminished.

Article 1293-If the document is arranged by one of the officials of the notary, but that agent has had no official authority or compliance with legal regulations in the document arrangements If the document has the sign or stamp of the person is normal.

It is worth noting that in the area of registration and legal issues arising from it:

1-Like traditional registration, electronic registration system is threatened by the major threats that although they have a modern context, but most of them are used in traditional categories. Forgery, identity theft, falsification, deception, abuse, perjury, etc. also occur in the electronic registration.

However, it should not be considered as a failure in a new system, in making the rules for it the facts of the material world should be abandoned or without regarding the authoritative principles of the international standards we are to take action in making the regulation.

2- Establishment of electronic registration offices is nothing but devoting some activities of available notary offices to the "electronic registration" or specialization of notary offices. The purpose is to protect the principles and practice of multi-year registration country, through leaving the responsibility to the legal notary heads. Without doubt, the notary offices- in case of not having the technical expertise-should resort to the relevant experts (computers, communications, Internet, etc.).

3. The electronic registration in meaning is not «the death of traditional registration. » Still the official paper document, has its tangible benefits and it cannot be claimed that the ancient habit of paper documents is to be forgotten among different social classes. In addition, in cases where issuing electronic document due to the intervention of the public order and interest, the consumer rights and... is prohibited under mentioned the law, the electronic document will not have any credit.

5- The Organization of the notary office

### **5-1- Notary office**

The administration of the office is under the responsibility of a person that is assigned according to the suggestion or the Real Estate registration organization while acquiring the consultation of notary office association heads and the clerks is

called the notary head. Each notary office in addition to a deputy clerk who is the assistant and the representation of registration organization can also have a second clerk. Under the proposal of the notary clerk and under the notification of the head of the Real Estate Registration of Iran by the authority powers delegated from Iran judiciary Bureau and as for the provisions of the notary offices the clerk is appointed.

### **5-2- Appointment of the notary heads, their duties and responsibilities**

Conditions and the selection of a notary public head in the rules governing during the reign of the Pahlavi dynasty were such that for a college education, work experience, had credibility especially for the scholar educational career. People who wanted to candidate for notary jobs must be certified in ijthad or at least finished the university education i.e., had bachelor's degree in criminal justice of the time and if the above conditions was not provided they should have many years of experience assisting in the notary office that still in current Iranian government the law running. To open a notary office as Article 740 says, the notary offices elected as the notary head are required within 3 months from the date of issuance of the notification to take action to establish the office unless they will be notified otherwise cancelled considering that the cost of buying office is very high and finding the perfect place to rent is very difficult. The deadline for the above due time should be reconsidered and more time should be devoted to it. The responsibility for the notary office issues is assumed for the administration of the notary and lack of the notary's signature on documents causes the failure of the credibility of the documents.

The notary responsibilities also include: the need and obligation to pay damages in compensation for the moral damages as well as liability in relation to natural and legal persons.

### **5-3- Appointment and duties of notary office clerk**

Article 3 of the notary office states, notary office clerk is appointed according to the suggestion of the head of the notary office and by the notification of the Real Estate and property Registration organization considering the provisions of the law and each notary office in addition to an office of the clerk who is the assistant to the notary office and has the representative of the organization and is called first clerk and may also have a second clerk and in paragraph 3 of Article 6 states that other licenses provided that they have 3 years experience in clerk experience of notary office gets engaged as deputy head at office; Given that according to the law the first clerk was announced as a representative of the Registration

Organization practically will have no relations with the Registration Organization and will serve as the chief financial clerk and of course, of the major problems that exist in society of notary and clerks and their viewpoints to their staff is biased and unfortunately there is not much interaction with the notary office of course, limited to the relationship between the boss and subordinates. The following persons can be appointed as a notary public office head:

- 1- Any person who has a law degree in judicial field or from the College of Theology or the former school of movable or immovable reasonable.
- 2- Any person who has two years of judicial service experience or basic attorney at law
- 3- Other graduate of the condition of having three years experience in clerical experience
- 4- Those that from Muslim authorities have discretion acknowledged that according to regulations are approved by the Ministry of Justice.
- 5- The clerks who pass the exam for notaries and clerks certified according to subparagraph of Article 10 of the Notarial Act provided in 1316 on the condition that they have 5 years experience in clerical job.
- 6- The clerks who graduate secondary school on the condition of having five years of clerical experience
- 7- The first clerk that at the date of enactment of this Act were employed and 15 years of experience in clerical job both either intermittent or continuous.

5-4- Priority need for the signature of the head of the notary over the clerk's in the notary office

In most sessions, panels and working groups that related to the duties notary and registrar are formed on assignments, on the discussion of precedence in the signature of the notary and clerk in documents which shall be signed by both of them, coming to a consensus among participants and experts on the subject are rarely observed. This paper intends to investigate the issue. It is obvious that in the first place must refer to laws adopted by the legislature.

Article 84 Law on Real Estate Registration Act of proclaimed on 1310, says any representative from the Department of Real Estate Registration for each notary office is appointed, that the notary must be present in working time, and register any commitment in his notary office every transaction that occurs after registration in the office of the office. The latter part of this article, it follows that first the document in the office and then in the office of the representative office (first clerk 3) will be registered.

Article 18 of the Law on Notarial and notary association heads and the clerks approved in 1354 on the legal signature of a document has stated: The registration of document will be signed by partners

of the transaction and the notary and, unless the notary office does not have any clerk.

#### **5-5-Limiting factors of freedom of will and interpretation of documents**

Limitations dominant on the scope of the principle of freedom and autonomy, both in private law and in the provisions of Public Law are stated directly. According to Article 10 of the Civil Code the acceptance of private contracts is subject to not being contrary to the law and in accordance with Article 975 of the same law, the Court of timely prohibited from implementation of the private contracts contrary to public order and good morals and Article 6 Procedure Code of Civil Affairs as well as public and revolutionary courts have the same decree.

Article 30 of the Notarial Law Offices prohibited notary offices from arrangements and registration of documents that its content is contrary to public order or good morals rules and regulations.

The scope of this limitation for is more explicit for the notary office in compare to the court offices. Because, according to the mentioned Article in addition to laws, following the regulations also in registration of official documents is required. For example, document should not be registered contrary to the rules and regulations and the criterion to distinguish peremptory norms of the Supplementary Provisions should also be considered.

#### **5-6- The main task of notaries in the registration and interpretation of documents**

With consideration on the above provisions, two main tasks in registration and interpreting documents for notaries office heads can be deduced;

A - Knowledge of legal practice and matching it with the laws and regulations in the area of private law and if necessary, removing possible ambiguities of document by resorting to supplementary rules of interpretation.

B - Result of this process of adaptation and harmonization with rules and regulations of public law, including laws, regulations, directives and public order and good morals. Also, the document must not be contrary to public order and good ethics.

#### **6- Discussion and Conclusion**

Notary office manager (or bureau or notary) is a civil institution affiliated with Iran's judiciary Bureau to for the official registration of documents that is managed without dependency on the political and financial establishment is independent.

Since the establishment of the Organization for Registration of Documents and Properties and the

traditional administrative system and administrative structure that had also been progressive in its kind, part of the executive functions has been assigned to the specialized civil institutions i.e., marriage and divorce Notarial Offices.

Notary public offices hold a significant part of the registration service and arrangement of official documents and while doing the work of free consultation are doing the legal aid services to the community, appointing some parts of affairs of the government including transference registration and obligations by the Judiciary Bureau to the private sector specialists, in addition to improving the accuracy of the documents and loss of ruling responsibility in this regard, An important part of complaints against the government or governmental officials and impairment of losses caused by mistakes in the arrangement of documents are given to a group of people that is notary public heads.

Documents are not limited to the restriction of their legal effects including the recognition and ability to execute and validating to documents' arrangements, but the material, spiritual, mental, economic, judicial and social effects are important. Hence the notary offices role and their status in social and economic relations of community is quite obvious for everybody and governments also in order and regulate the relations between individuals in many their personal and social aspects intervene and the arrangements official documents are not the exception.

The government, to establish notary offices has set certain conditions and in addition to the obligation of licensing requirement, to manage their affairs, a person named notary has been specified. Notary is appointed to do the work and duties of his office and gives the information the local notary office Central registry office. Other terms of notary office and working time are according to the regulations of the Ministry of Justice.

The most important factor in the proliferation of criminal cases in the judiciary is the lack of legal awareness of the law and consequently the regular documents arrangements in real estate and car agencies.

Any person in an agency that is not legal expertise nor there is any major supervision over their actions; takes action to set a document transaction arrangement or other normal documents and fills in the forms already prepared having no understanding of the content of the mentioned document and by receiving the fee much higher than the cost of document arrangement in the notary office leads the dealers to the Bureau of Justice but by arrangement of the document in the notary office considering that the head and the clerk after depositing the guarantee in the Real

Estate and Property Organization in order to compensate the loss and predicting all their responsibilities for them will do their best following the rules.

Nevertheless, the law of the notary offices was arranged according to its appropriate time condition and nowadays the need for mechanization and the use of technology and reformation of the Notary offices are established as necessary and of course the steps have been taken in this regard, but are not enough.

Official registration promotes the lawful order of society. According to official records and institutionalization of official registration culture in society is the underlying improvement of the legal order and health of the affairs. Many current expenses and the huge amount of court cases and.... and the different abuses are due to lack of attention to official transactions and economic behavior.

The registration and sound foundation of economic behavior in the Muslim community as a religious emphasis has also been considered can be a learned as a known behavior. Now a lot of speculation phenomenon is the result of inattention and lack of actions of the organizations that are to protect the owners of land and personal property and by making document for these lands, the amount of the abuse and misuse of these areas are significantly reduced and even eliminated.

The organizations according to the law and their organizational mission are obliged to have knowledge in the area and take care about and care for them through preparing documentation for it.

The core and serious strategy of the Registration Organization of Deeds and Properties is change in registration services provided and clear and rapid pace in performing through the use of virtual spaces without people referring to the registration units and despite the shortages and difficulties in funding and staffing step must seriously be taken forward in this way.

Annually presentation of nearly 34 million services in the collection of registration of the documents and property is confirmation of the effective and vital role of the organization in individual and social decisions and if new methods could be provided for obtaining the services there will be less people's reference in addition to saving a lot of public expenses, including fuel, time, air pollution, preventing the crimes and infractions. Now providing registration services in the area to respond to inquiries, patent and limited liability companies are carried out through online-defined systems, and in the implementation of the law to make final decisions for the lands and buildings without documents that will be performed from the beginning of November in the country also the requests must be submitted through the system without referring to the registration units.



Finally, it should be noted that in this regard, certainly we need all administrative and judicial managers' assistance in order to decide and to spread a registration culture in the country and certainly their plans and views are welcomed on improving registration services.

### **References**

#### Books

- Tabatabai Hessari, Nasrin, ( 1389). **A Comparative Study of the Land Registry System.**
  - Abbas Dakani, Khosro, **The Registration Law**
  - Mohammad, Sayed Jalil, **The History of the Manner of Real Estate Registration in Iran**
  - Rules (Magazine, Articles and Bylaws, Directives)
  - Law on Notary Offices Act of 1354
  - Regulations Notary Offices Act of 1317
  - Directive No. 20648/1 - Tehran recorded 1386/05/22
  - Monthly Periodical (53) Association of Notaries and Clerks, October and November 1383
  - Roshan, Hassan, The Scope of Authority of Notary Offices in the Interpretation of the Contract, the monthly Association. Number 70 site: Public Relations of Notary Office Heads and Clerks' Association
  - WWW.Notary.ir
  - Registration of Real Estate
  - WWW.ssaa.ir
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